

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BOARD OF TRUSTEES OF THE LOCAL)
295/LOCAL 851 – I.B.T. EMPLOYER)
GROUP PENSION TRUST FUND and the)
BOARD OF TRUSTEES OF THE LOCAL)
295/LOCAL 851 – I.B.T. EMPLOYER)
GROUP WELFARE FUND,)

Plaintiffs,)

vs.)

EMPIRE FREIGHT SYSTEMS CORP.,)

Defendant.)

Case No. 08-525 (LAK) (FM)

MOTION FOR ENTRY OF DEFAULT

To: CLERK OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Please enter the default of defendant Empire Freight Systems Corp. pursuant to Rule 55(a) of the Federal Rules of Civil Procedure for failure to plead or otherwise defend the above-captioned action as fully appears from the Court file herein. The summons and complaint herein were filed on January 22, 2008. Defendant Empire Freight Systems Corp. was served with copies of the Summons and Complaint on January 28, 2008, as set forth in the attached Affidavit of Service. Empire Freight Systems Corp. has not filed an Answer or otherwise appeared in this action.

DATED: May 5, 2008

CARY KANE LLP



Rachel S. Paster
1350 Broadway, Suite 815
New York, NY 10018
(212) 868-6300

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and Process Service Company

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BOARD OF TRUSTEES OF THE LOCAL 295/
LOCAL 851 PENSION AND WELFARE TRUST FUNDS,

Plaintiffs,

-against-

AFFIDAVIT OF SERVICE
08 CV 00525

EMPIRE FREIGHT SYSTEMS CORP.,

Defendant(s).

STATE OF NEW YORK)
S.S.:
COUNTY OF ALBANY)

DEBORAH LaPOINTE, being duly sworn, deposes and says that she is over the age of eighteen years, is employed by the attorney service, D.L.S., INC., and is not a party to this action.

That on the 28TH day of January, 2008, at approximately the time of 12:30 P.M., at the office of the Secretary of State, of the State of New York in the City of Albany, New York, deponent served the SUMMONS AND COMPLAINT upon EMPIRE FREIGHT SYSTEMS CORP., the defendant in this action, by delivering to and leaving with DONNA CHRISTIE agent of the Secretary of State, of the State of New York, two (2) true copies thereof and at that time of making such service deponent paid said Secretary of State a fee of forty dollars. That said service was made pursuant to Section, 306 Business Corporation Law.

Deponent further says that she knew the person so served as aforesaid to be the individual in the Office of the Secretary of State of New York, duly authorized to accept such service on behalf of said defendant.

DONNA CHRISTIE is a white female, approximately 45 years of age, stands approximately 5 feet 4 inches tall, weighs approximately 145 pounds with blonde hair and blue eyes.

DEBORAH LaPOINTE
Sworn to before me this
28TH day of January, 2008.

NOTARY PUBLIC

Franc J. Panucci
Notary Public State of NY
Qualified in Albany Co.
No. 4721156
Comm. Expires July 31, 2010

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GROUP WELFARE FUND,)

Plaintiffs,)

vs.)

EMPIRE FREIGHT SYSTEMS CORP.,)

Defendant.)

Case No. 08-525 (LAK) (FM)

CLERK'S CERTIFICATE OF DEFAULT

I, J. Michael McMahon, Clerk of the United States District Court for the Southern District of New York, do hereby certify that the docket entries in the above-entitled proceeding indicate that the summons and complaint herein were filed on January 22, 2008 and that defendant Empire Freight Systems Corp. was served with copies of the Summons and Complaint on January 28, 2008. I further certify that the docket entries indicate that the defendant has not filed an answer or otherwise moved with respect herein and that the time to answer or move has expired. The default of defendant is hereby noted.

Dated: New York, New York

J. Michael McMahon